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13 Attorneys for Defendant
 NISSAN NORTH AMERICA, INC.

14
 15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 OAKLAND DIVISION

19 MICHELLE FALK, INDHU JAYAVELU,
 20 PATRICIA L. CRUZ, DANIELLE TROTTER,
 CYNTHIA GARRISON, AND AMANDA
 21 MACRI, individually and on behalf of all
 others similarly situated,

22 Plaintiffs,

23 v.

24 NISSAN NORTH AMERICA, INC.,

25 Defendant.

Case No. 4:17-cv-04871-HSG

**JOINT STIPULATION TO PERMIT
 AMENDMENT OF COMPLAINT TO
 ADD PLAINTIFF; ORDER;
 DECLARATION OF MICHAEL J.
 STORTZ**

1 Defendant Nissan North America, Inc. (“NNA”), Plaintiffs Michelle Falk, Indhu Jayavelu,
2 Patricia L. Cruz, Danielle Trotter, Amanda Macri, and Cynthia Garrison (“Plaintiffs”), and Waldo
3 Leyva (“Leyva”), by and through their respective undersigned counsel of record, hereby stipulate
4 to and agree as follows:

5 WHEREAS, after filing this action on August 22, 2017, Plaintiffs filed their First
6 Amended Complaint (“FAC”) on September 27, 2017 (D.E. 19);

7 WHEREAS, Plaintiffs seek to represent a proposed class of “[a]ll persons who purchased
8 and/or leased in the United States a model year 2013-2017 Nissan Sentra equipped with a
9 [continuously variable transmission],” and subclasses of persons who purchased and/or leased
10 such vehicles in California, Ohio, New York, Colorado, Massachusetts, and Illinois (FAC, ¶¶
11 112-113);

12 WHEREAS, NNA moved to dismiss Plaintiffs’ FAC on October 26, 2017 (D.E. 35);

13 WHEREAS, following hearing on January 11, 2018, the Court has taken NNA’s motion
14 under submission (D.E. 55);

15 WHEREAS, the Court issued a Scheduling Order on January 12, 2018 (D.E. 56), which
16 set a deadline of March 16, 2018 for further amendment of the Complaint in this action;

17 WHEREAS Leyva filed on September 11, 2017 a civil action in the United States District
18 Court for the Central District of California, under caption *Leyva v. Nissan North America, Inc.*,
19 Case No. 5:17-cv-01870 FMO (“*Leyva Action*”);

20 WHEREAS, in his First Amended Class Action Complaint filed on December 18, 2017,
21 Leyva seeks to represent a proposed class of “[a]ll individuals in the United States who purchased
22 or leased any 2012-2017 Nissan Sentra equipped with an Xtronic CVT” and one or more
23 subclasses;

24 WHEREAS, NNA moved to dismiss Leyva’s First Amended Class Action Complaint on
25 January 12, 2018, and the motion remains pending;

26 WHEREAS, the putative class and one or more subclasses alleged in the *Leyva Action*
27 overlap with the alleged class and/or subclasses alleged in this action; and

28 WHEREAS, the *Falk* Plaintiffs, Leyva, and NNA desire to avoid the expense of

1 duplicative discovery, and the potential waste of judicial resources;

2 THEREFORE, it is hereby stipulated to and agreed as follows:

3 1. On or before April 19, 2018, Leyva will dismiss the *Leyva* Action without
4 prejudice.

5 2. Upon dismissal of the *Leyva* Action, counsel for Leyva may file a notice of
6 appearance in the *Falk* action. Leyva shall be permitted to join this action as an additional named
7 Plaintiff via amended complaint after the Court has ruled on the pending motion to dismiss. If
8 Plaintiffs determine to file an amended Complaint that is limited solely to adding Leyva as an
9 additional named Plaintiff, then Defendant will not oppose such amendment.

10 3. Leyva may not assert any claim for relief or cause of action not asserted by the
11 Plaintiffs in their FAC in this action.

12 4. Leyva shall be bound by this Court's ruling on NNA's pending motion to dismiss
13 in this action and may not assert any claim for relief or cause of action dismissed without leave to
14 amend.

15 5. The applicable limitations period for Leyva's claims shall be tolled for the period
16 from the date of the filing of the dismissal of the *Leyva* Action until the date that Leyva is added
17 to this action.

18 6. The deadline to amend the Complaint in this action shall be continued to and
19 including fourteen (14) days following the Court's ruling on NNA's pending motion to dismiss,
20 or any other date that the Court may set in its ruling.

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Dated: April 17, 2018

DRINKER BIDDLE & REATH LLP

By: /s/ Michael J. Stortz
Michael J. Stortz
Marshall L. Baker
E. Paul Cauley, Jr. (*pro hac vice*)

Attorneys for Defendant
NISSAN NORTH AMERICA, INC.

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Dated: April 17, 2018

WHITFIELD BRYSON & MASON LLP

By: /s/ Gary Mason
Gary Mason (*pro hac vice*)

Attorneys for Plaintiffs

Dated: April 17, 2018

CAPSTONE LAW APC

By: /s/ Jordan L. Lurie
Jordan L. Lurie

Attorney for Waldo Leyva

Attestation Pursuant to Civil Local Rule 5-1(i)

Pursuant to Civil Local Rule 5-1(i), I, Michael J. Stortz, hereby attest that I have obtained concurrence in the filing of this document from the other signatories to this document.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 17th day of April, 2018 in San Francisco, California.

By: /s/ Michael J. Stortz
Michael J. Stortz

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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: April 17, 2018



Hon. Haywood S. Gilliam, Jr.
UNITED STATES DISTRICT JUDGE